

EN BANC

[G.R. No. 189689, November 13, 2012]

IN THE MATTER OF THE PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO IN FAVOR OF LILIBETH O. LADAGA: LILIBETH O. LADAGA, PETITIONER, VS. MAJ. GEN. REYNALDO MAPAGU, COMMANDING GENERAL OF THE PHILIPPINE ARMY'S 10TH INFANTRY DIVISION (ID); COL. LYSANDER SUERTE, CHIEF OF STAFF, 10TH ID, LT. COL. KURT A. DECAPIA, CHIEF, 10TH ID, PUBLIC AFFAIRS OFFICE; COL. OSCAR LACTAO, HEAD-TASK FORCE-DAVAO; SR. SUPT. RAMON APOLINARIO, DAVAO CITY POLICE OFFICE DIRECTOR; AND SEVERAL OTHER JOHN DOES, RESPONDENTS.

[G.R. NO. 189690]

IN THE MATTER OF THE PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO IN FAVOR OF ANGELA A. LIBRADO-TRINIDAD: ANGELA A. LIBRADO-TRINIDAD, PETITIONER, VS. MAJ. GEN. REYNALDO MAPAGU, COMMANDING GENERAL OF THE PHILIPPINE ARMY'S 10TH ID; COL. LYSANDER SUERTE, CHIEF OF STAFF, 10TH ID, LT. COL. KURT A. DECAPIA, CHIEF, 10TH ID, PUBLIC AFFAIRS OFFICE; COL. OSCAR LACTAO, HEAD-TASK FORCE-DAVAO; SR. SUPT. RAMON APOLINARIO, DAVAO CITY POLICE OFFICE DIRECTOR; AND SEVERAL OTHER JOHN DOES, RESPONDENTS.

[G.R. NO. 189691]

IN THE MATTER OF THE PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO IN FAVOR OF CARLOS ISAGANI T. ZARATE: CARLOS ISAGANI T. ZARATE, PETITIONER, VS. MAJ. GEN. REYNALDO MAPAGU, COMMANDING GENERAL OF THE PHILIPPINE ARMY'S 10TH ID; COL. LYSANDER SUERTE, CHIEF OF STAFF, 10TH ID, LT. COL. KURT A. DECAPIA, CHIEF, 10TH ID, PUBLIC AFFAIRS OFFICE; COL. OSCAR LACTAO, HEAD-TASK FORCE-DAVAO; SR. SUPT. RAMON APOLINARIO, DAVAO CITY POLICE OFFICE DIRECTOR; AND SEVERAL OTHER JOHN DOES, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

The Cases

In each of these three (3) consolidated petitions for review, the Court is tasked to evaluate the substantially similar but separately issued Orders of the Regional Trial Court (RTC) of Davao City, Branch 10, dated August 14, 2009^[1] in the three (3) writ of *amparo* cases, as well as, the Order dated September 22, 2009^[2] denying the joint motion for reconsideration thereof.

The Facts

Petitioners share the common circumstance of having their names included in what is alleged to be a JCICC "AGILA" 3rd Quarter 2007 Order of Battle Validation Result of the Philippine Army's 10th Infantry Division (10th ID),^[3] which is a list containing the names of organizations and personalities in Southern Mindanao, particularly Davao City, supposedly connected to the Communist Party of the Philippines (CPP) and its military arm, the New People's Army (NPA). They perceive that by the inclusion of their names in the said Order of Battle (OB List), they become easy targets of unexplained disappearances or extralegal killings – a real threat to their life, liberty and security.

The petitioner in G.R. No. 189689, ATTY. LILIBETH O. LADAGA (Atty. Ladaga), first came to know of the existence of the OB List from an undisclosed source on May 21, 2009. This was after the PowerPoint presentation made public by Bayan Muna Party-List Representative Satur Ocampo (Representative Ocampo) on May 18, 2009 during the conclusion of the International Solidarity Mission (ISM) conducted by various organizations. The following entries bearing specific reference to her person were reflected therein:

7. ON 12 NOV 07, MEETING AT SHIMRIC BEACH RESORT, TALOMO, DC
PRESIDED BY ATTY LILIBETH LADAGA – SEC GEN, UNION OF
PEOPLE'S LAWYER MOVEMENT (UPLM) AND KELLY DELGADO–SEC
GEN, KARAPATAN:

- PRESENTED THE NATL GOAL/THEME WHICH STATES THAT "THE STAGE IS SET, TIME TO UNITE AGAINST ARROYO, STEP UP PROTESTS AND ARMED OFFENSIVE."
- DISCUSSED THE FOLLOWING ISSUES WHICH WILL BE CAPITALIZED ON THEIR PLANNED ACTIVITIES ON 30 NOV 07:

ISSUES:

1. OUTREACH PROGRAMS/ MEDICAL MISSION IN RURAL AREAS;
2. OUT OF SCHOOL YOUTH RECRUITMENT;
3. P125 DAILY WAGE HIKE OR P3,000 ACROSS THE BOARD HIKE;
4. SCRAP ANTI-TERRORISM BILL;
5. OIL DE-REGULATION LAW;
6. ANTI-LARGE SCALE MINING;

7. CORRUPTION AND ANTI-POVERTY/ZTE ISSUES AND BRIBERY;
8. ANTI-POLITICAL AND EXTRA JUDICIAL KILLINGS;
9. CARP ISSUES AND LAND DISPUTES; AND
10. LATEST GLORIETA BOMBING

COMPOSITION: CIVIC, RELIGIOUS, TRANSPORT, LABOR AND PEASANT, YOUTH SECTOR, PROGRESSIVE GROUPS, BUSINESS SECTOR, ANTI-PGMA, BLACK AND WHITE MOVEMENT AND ANTI-POVERTY MOVEMENT.

ULTIMATE GOAL: TRY TO OUST PGMA ON 30 NOV 07^[4]

In her Affidavit,^[5] Atty. Ladaga substantiated the threats against her life, liberty and security by narrating that since 2007, suspicious-looking persons have been visiting her Davao City law office during her absence, posing either as members of the military or falsely claiming to be clients inquiring on the status of their cases. These incidents were attested to by her law office partner, Atty. Michael P. Pito, through an Affidavit^[6] dated June 16, 2009.

On the other hand, the petitioner in G.R. No. 189690, Davao City Councilor ATTY. ANGELA LIBRADO-TRINIDAD (Atty. Librado-Trinidad), delivered a Privilege Speech^[7] before the members of the *Sangguniang Panglungsod* of Davao City on May 19, 2009 to demand the removal of her name from said OB List. Subsequently, the Davao City Council ordered a formal investigation into the existence of the alleged OB List. The Commission on Human Rights (CHR), for its part, announced the conduct of its own investigation into the matter, having been presented a copy of the PowerPoint presentation during its public hearing in Davao City on May 22, 2009.

According to her, in the course of the performance of her duties and functions as a lawyer, as a member of the *Sangguniang Panglungsod* of Davao, as well as, of Bayan Muna, she has not committed any act against national security that would justify the inclusion of her name in the said OB List. In her Affidavit,^[8] she recounted that sometime in May 2008, two suspicious-looking men on a motorcycle tailed her vehicle as she went about her day going to different places. She also recalled that on June 23, 2008, while she was away from home, three unidentified men tried to barge into their house and later left on board a plate-less, stainless "owner type-vehicle." Both incidents were duly reported to the police.^[9]

Meanwhile, the petitioner in G.R. No. 189691, current Secretary General of the Union of Peoples' Lawyers in Mindanao (UPLM) and Davao City Coordinator of the Free Legal Assistance Group (FLAG), ATTY. CARLOS ISAGANI T. ZARATE (Atty. Zarate), was informed sometime in May 2009 that his name was also among those included in the OB List made public by Representative Ocampo at a forum concerning human rights violations in Southern Mindanao. In Atty. Zarate's petition,^[10] he alleged that:

5. On May 19, 2009, during a press conference marking the conclusion of an International Solidarity Mission (ISM) – attended by both local and international delegates and organized to investigate alleged human rights violations in Southern Mindanao by state's forces – Bayan Muna Party-list Representative Satur Ocampo revealed the existence of a “watch list,” officially known in military parlance as “Order of Battle” prepared by the intelligence arm of Philippine Army's 10th ID, headed by respondent Maj. Gen. Reynaldo Mapagu. x x x;

6. The said “**Order of Battle**” was contained in a [PowerPoint] presentation marked “**SECRET**” and captioned “**3rd Quarter 2007 OB Validation Result**”; it was supposedly prepared by the “**JCICC 'Agila'**” under the [O]ffice of the Assistant Chief of Staff for Intelligence of the 10th Infantry Division of the Philippine Army. It also mentioned a certain “**JTICC 'LAWIN'**” with the following as members: **Task Force Davao – Chairman; Team Leader, SPOT11-3, MIG11, ISAFP, NISU-Davao, NISG-EM, PN, 305th AISS, PAF, TL, ISU 11, PA, S2, RCDG, PA; M2, DCPO; NICA XI; S2, 104th DRC, PA, and, WACOM-Researcher/Analyst MIG11, ISAFP**[;]

7. The said [PowerPoint] presentation (which Representative Ocampo said was “leaked” by a “conscientious soldier”), revealed the names of organizations and personalities in Southern Mindanao, particularly Davao City, supposedly “connected” to the Communist Party of the Philippines (CPP) and its military arm, the New People's Army (NPA);

8. The name of the herein petitioner was listed in the categories of “**human rights**” and “**Broad Alliance**” x x x;^[11] (Emphasis in the original)

Asserting that the inclusion of his name in the OB List was due to his advocacies as a public interest or human rights lawyer, Atty. Zarate vehemently and categorically denied that he was fronting for, or connected with, the CPP-NPA.^[12]

In fine, petitioners were one in asserting that the OB List is really a military hit-list as allegedly shown by the fact that there have already been three victims of extrajudicial killing whose violent deaths can be linked directly to the OB List, to wit: Celso B. Pojas, who was assassinated in May 2008^[13] purportedly because he was Secretary General of the Farmers Association of Davao City^[14] and Spokesperson of the Kilusang Magbubukid sa Pilipinas (KMP),^[15] which organizations were identified as communist fronts in the subject OB List; Lodenio S. Monzon, who was a victim of a shooting incident in April 2009^[16] due to his supposed connection to the known activist party-list group Bayan Muna^[17] as Coordinator in the Municipality of Boston, Davao Oriental; and Dr. Rogelio Peñera, who was shot to death in June 2009 allegedly because he was a member of RX Against Erap (RAGE),^[18] a sectoral group also identified in the OB List.

Petitioners further alleged that respondents' inconsistent statements and obvious prevarication sufficiently prove their authorship of the subject OB List. Supposedly

sourced from their own Press Releases,^[19] respondents have been quoted in several newspapers as saying: 1) that the "10th ID has its Order of Battle, and, it is not for public consumption"; 2) that the Order of Battle "requires thorough confirmation and validation from different law enforcement agencies, and from various sectors and stakeholders who are the ones providing the information about the people and organizations that may in one way or the other, wittingly or unwittingly, become involved in the CPP's grand design"; 3) that an "order of battle does not target individuals; it is mainly an assessment of the general threat to national security"; 4) that Representative Ocampo "utilized the material to disrupt the ongoing government efforts in the area by raising issues and propaganda against the military"; 5) that "[t]he public viewing of the "falsified" document of the OB was a deliberate act of Representative Ocampo x x x to mar the image of the military forces, gain media mileage and regain the support of the masses and local executives"; 6) that Representative Ocampo "'twisted' the data and insinuated names as targets of the AFP/10ID when in fact these are targets (for infiltration) by the CPP/NPA"; and 7) that this "attempt of the CPP to attribute human rights violations to the Philippine government is a cover to mask their record of killing people." According to petitioners, there is no question that these Press Releases came from the 10th ID. Its source email address, dpao10id@yahoo.com, has been identified by regular correspondent of the *Philippine Daily Inquirer* Jeffrey Tupas as the same one used by respondent Lt. Col. Decapia in sending to him previous official press statements of the 10th ID, including the Press Release entitled, "CPP/NPA demoralized, ISM on the rescue."^[20]

On June 16, 2009, petitioners separately filed before the RTC a Petition for the Issuance of a Writ of *Amparo* with Application for a Production Order,^[21] docketed as Special Proceeding Nos. 004-09,^[22] 005-09^[23] and 006-09.^[24] On June 22, 2009, the RTC issued separate Writs of *Amparo*^[25] in each of the three (3) cases, directing respondents to file a verified written return within seventy-two (72) hours and setting the case for summary hearing on June 29, 2009.

In their Returns,^[26] respondents denied authorship of the document being adverted to and distributed by Representative Ocampo to the media. They claimed that petitioners miserably failed to show, by substantial evidence, that they were responsible for the alleged threats perceived by petitioners. Instead, they asserted that petitioners' allegations are based solely on hearsay, speculation, beliefs, impression and feelings, which are insufficient to warrant the issuance of the writ and, ultimately, the grant of the privilege of the writ of *amparo*.

In her Reply,^[27] Atty. Librado-Trinidad averred that the present petition substantially conformed with the requirements of the *Amparo* Rule, as it alleged ultimate facts on the participation of respondents in the preparation of the OB List, which naturally requires utmost secrecy. The petition likewise alleged how the inclusion of their names in the said OB List substantiates the threat of becoming easy targets of unexplained disappearances and extrajudicial killings. On the other hand, Attys. Zarate and Ladaga commonly asserted^[28] that the totality of the events, which consists of respondents' virtual admission to the media of the existence of the OB List, as well as, the fact that known victims of past extrajudicial killings have been likewise labeled as communist fronts in similar orders of battle, more than satisfies the standard required to prove that petitioners' life, liberty and